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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 BRUCE CORKER, d/b/a RANCHO
10 ALOHA, *et al.*,

11 Plaintiffs,

12 v.

13 COSTCO WHOLESALE CORPORATION,
14 *et al.*,

15 Defendants.

16 Case No. C19-0290RSL

17 ORDER DENYING PLAINTIFFS'
18 MOTION TO SEAL AND MULVADI'S
19 MOTION TO CONTINUE

20 This matter comes before the Court on plaintiffs' "Motion to Seal" (Dkt. # 542) and
21 "Defendant Mulvadi Corporation's Motion for Continuance of Plaintiffs' Motion for Sanctions
22 of Default and an Order to Cease Unlawful Conduct" (Dkt. # 549). In support of their motion for
23 sanctions, plaintiffs rely upon portions of the deposition testimony of Dana Mattos that are
24 marked "Confidential Attorney's Eyes Only." Mr. Mattos is the Rule 30(b)(6) designee of third-
25 party Hawaii Coffee Connection ("HCC"). Plaintiffs assert that the relevant portions of the
26 deposition at issue are not confidential, but that they were unable to obtain HCC's agreement to
27 withdraw the designation. HCC, for its part, has taken the position that "[p]laintiffs designated
28 the testimony as confidential. [They] are stuck with that." Dkt. # 553-1 at 4.

29 "There is a strong presumption of public access to the court's files," and, absent a

30 ORDER DENYING PLAINTIFFS'
31 MOTION TO SEAL AND MULVADI'S
32 MOTION TO CONTINUE - 1

1 showing that the public's right of access is outweighed by the interests of the public and/or the
 2 parties in shielding the material from public view, a seal is not appropriate. LCR 5(g). The
 3 presumption of access is "based on the need for federal courts, although independent - indeed,
 4 particularly because they are independent - to have a measure of accountability and for the
 5 public to have confidence in the administration of justice." *U.S. v. Amodeo*, 71 F.3d 1044, 1048
 6 (2nd Cir. 1995). By making government records available for public scrutiny, the presumption of
 7 access "promot[es] the public's understanding of the judicial process and of significant public
 8 events." *Valley Broad. Co. v. U.S. Dist. Court - D. Nev.*, 798 F.2d 1289, 1294 (9th Cir. 1986).

9 In order to overcome the presumption, the party requesting that court records be sealed
 10 generally has the burden of making a compelling showing that the public should be excluded.

11 See *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006).¹

12 Under this stringent standard, a court may seal records only when it finds a
 13 compelling reason and articulates the factual basis for its ruling, without relying on
 14 hypothesis or conjecture. The court must then conscientiously balance the
 15 competing interests of the public and the party who seeks to keep certain judicial
 16 records secret. What constitutes a "compelling reason" is best left to the sound
 17 discretion of the trial court. Examples include when a court record might be used
 18 to gratify private spite or promote public scandal, to circulate libelous statements,
 19 or as sources of business information that might harm a litigant's competitive
 20 standing.

21 *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97 (9th Cir. 2016) (internal
 22 citations, alterations, and quotation marks omitted).

23 Neither party claims that the deposition testimony at issue is confidential. Because there is
 24 no countervailing interest to the public's right to access the evidence, the motion to seal is
 25 DENIED.

26 ¹ Where the motion at issue involves discovery or some other non-dispositive issue, "[a] 'good
 27 cause' showing under Rule 26(c) will suffice to keep sealed records attached to non-dispositive
 28 motions." *Id.* at 1180.

29 ORDER DENYING PLAINTIFFS'
 30 MOTION TO SEAL AND MULVADI'S
 31 MOTION TO CONTINUE - 2

With regards to Mulvadi's motion to continue, it appears that Mulvadi is aware of the substance of Mr. Mattos' deposition testimony but believes that he misspoke. Through its communications with HCC's counsel, Mulvadi has come to believe that Laurie Mattos, HCC's co-owner, handles the freeze-dried coffee side of the business and that Mr. Mattos' testimony on the subject requires clarification. No admissible evidence supports Mulvadi's conjecture, however. The declaration of John Crosetto recounts statements made by HCC's counsel which, in turn, appear to be based on statements made by Mr. and/or Mrs. Mattos. It is not at all clear what, if anything, about Mr. Mattos' testimony was erroneous or needs clarification. Rather than spend the three weeks between the filing of the motion for sanctions and the filing of its opposition to obtain a declaration from HCC's owners, Mulvadi waited two weeks before relying on multiple levels of hearsay to request a continuance. The motion is DENIED.

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For all of the foregoing reasons, plaintiffs' motion to seal (Dkt. # 542) and Mulvadi's motion to continue (Dkt. # 549) are DENIED. The Clerk of Court is directed to unseal Dkt. # 546 and # 547.

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Dated this 22nd day of December, 2021.

Robert S. Lasnik

Robert S. Lasnik
United States District Judge

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27 ORDER DENYING PLAINTIFFS'
MOTION TO SEAL AND MULVADI'S
MOTION TO CONTINUE - 3

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